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10/621,153	07/15/2003	Joel K. Young	977.055US1	1208

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EXAMINER
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NGUYEN BA, HOANG VU A

ART UNIT	PAPER NUMBER
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2421

MAIL DATE	DELIVERY MODE
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05/13/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/621,153</p>	<p><b>Applicant(s)</b> YOUNG, JOEL K.</p>	
	<p><b>Examiner</b> Hoang-Vu A. Nguyen-Ba</p>	<p><b>Art Unit</b> 2421</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuing page.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Hoang-Vu Antony Nguyen-Ba/  
Primary Examiner, Art Unit 2421

## 102 Rejection of the Claims

## Claims 25-33:

In response to Applicant's arguments that "... the reasoning of the Office Action has the play list configured from the third location (the client) when a user logs in instead of the first location" and that "[t]hus, Taylor does not teach or even suggest configuring a playlist of video files from a list network location ... in part by logging into the third location," it is respectfully noted that a user of Taylor would select the video files at the client (3<sup>rd</sup> location) using the option "Music/Playlists/Create Playlist" and then the playlist is assembled (configured) at the proxy server (1<sup>st</sup> network). It is noted that the claim language specifically recites "configured at least IN PART by logging into the 3<sup>rd</sup> location with a web browser" (emphasis added by examiner). The configuring in part by logging into the 3<sup>rd</sup> location with a web browser is considered to be properly anticipated by the action of the user logging into the Windows Media Player (WMP) browser to select the video/song files -- configu[ing] in part. The actual configuring is done at the proxy location (1<sup>st</sup> location). (see FIG. 6, step 615).

The claimed "executing the playlist" is anticipated by the playing of the playlist by the WMP and the "including pulling video content associated with two or more video files from the second network location over the network according to the playlist" is considered to be anticipated by Taylor in step 635 of FIG. 6.

## Claim 34:

As correctly pointed out by Applicant, [0035] of Taylor indicates that a user uses a web browser to connect o (communicate with ) to a media server such as proxy server 420. Therefore, the correct device that is equivalent to the claimed media server is the proxy server. The Office incorrectly indicates that the claimed media is the client 300. It should be the proxy server in order to be consistent with the reasoning set forth by the Office action in the rejection of claim 25. With the interpretation that the claimed media server is Taylor's proxy server, the Office considers that Taylor meets the requirements of Claim 34.

## Claim 25 and 34:

Contrary to Applicant's assertion, Taylor does disclose:

wherein the playlist (e.g., the playlist ) includes at least one track (one video/picture/song/media clip),

wherein the track includes an identifier (media clip 1 or 2,-8) to select one or more of the number of the video files and includes at least one logical action relating to playing the playlist (retrieve media clip1 from <http://www.media.com/file1.clp>).

Contrary to Applicant's assertion, the claimed track can be reasonably interpreted as the track (see definition of track at [www.dvdhelp.us/html/glossary.html](http://www.dvdhelp.us/html/glossary.html)).

## 103 rejection of the claims

1. With respect to Claim 1, for the features that are similar to those of claims 25 and 34, see discussion above.

In response Applicant's assertion that the disclosure teaching or suggestion of "a web client to communicate with each media server through the network to configure at least one playlist in the media server using a web browser, ... each media server configured to execute the playlist to control video content on the video display," it is noted that Ellis' [0006] does provide on-line program guides that allow users to view program listings using a web browser.

For the remaining features of the aforementioned limitation, see discussion above (Claim 25 and 34).

In response to Applicant's assertion that addition of the ability of a user to select play list would not add anything to the system of Ellis but a list already provided by Ellis (p. 12, last paragraph), it is noted that the ability to create a play list of video files can be used for creating a list of video files (e.g., programs) to be recorded (e.g., program reservation). Therefore, the teachings of Taylor can be combined with that of Ellis.

## 2. Claim 10:

Contrary to Applicant's assertion that Rodriguez does not teach "wherein the logical actions include a number of times to play the files, it is noted that Rodriguez refers to a rental period selection screen and to a number of times to play the files in the playlist (see at least [0005]).

## 3. Claims 3-6, 11:

Since Applicant's arguments are the same as those discussed in Claim 25 and 34, the same response is thus applied.

## 4. Claims 12 and 13:

Since Applicant's arguments are the same as those discussed in Claim 25 and 34, the same response is thus applied.

## 5. Claim 21:

Since Applicant's arguments are the same as those discussed in Claim 25 and 34, the same response is thus applied.

